

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable receive an exemption identification number ("E" number). See 86 Ill. Adm. Code 130.2007. (This is a PLR).

April 23, 1999

Dear Mr. Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see enclosed), is in response to your letter of March 14, 1999. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

Thank you for your response to my inquiry concerning sales to tax exempt organizations.

I would like to apply for a Private Letter Ruling on formulating a letter to ask a tax exempt group to sign when they are claiming a tax exempt sale at a banquet facility.

We are not under an audit.

ELEMENT 1. FACTS OF SITUATION The factual situation is that we are a golf course and banquet facility that is open to the public. On occasion, religious, charitable and governmental bodies will use our facility for functions serving members of their organization. On occasion, the organizations will hold fund raising events and ask non members to attend. The organizations all have Illinois Department of Revenue 'E' numbers. The organizations all claim that their event is exempt from State Sales Taxes.

We understand our responsibility to the State to verify the tax exempt status of a sale. We wish to formulate a letter that we could ask the organization's chairman or treasurer to sign that would:

1. Require the group to demonstrate that it has an active Illinois Department of Revenue exemption identification 'E' number.
2. Require the chairman to demonstrate that he or she knows what type of sale is exempt and acknowledges that the sale qualifies as being tax exempt.
3. Require the group to acknowledge that it will pay the tax if the sale is determined to be taxable at a later date by the Illinois Department of Revenue.

I have made up a letter that we think will accomplish all three goals. I have attached a copy of the letter. We wish to see if the Illinois Department of Revenue has any comments or suggestions concerning this matter.

ELEMENT 2. DOCUMENTS>> Attached copy of proposed letter

ELEMENT 3. TIME PERIOD>> From date of private letter forward to the future until a change of current laws regarding this matter.

ELEMENT 4. STATEMENT OF TAXPAYERS KNOWLEDGE OF PRIOR RULINGS>> The taxpayer has no knowledge of prior rulings of this or similar matters.

ELEMENT 5. SUPPORTING ARGUMENT OF TAXPAYER'S VIEW >> Both the tax exempt organization and the business responsible to collect the taxes would benefit by a commonly accepted form that states the elements of a tax exempt sale.

The tax exempt organization usually has a different event chairman each year. The chairman usually has little or no knowledge of what constitutes a tax exempt sale. (In fact when we ask for a tax exempt number most groups attempt to give us their federal employer identification number.) A commonly accepted form letter that could be presented at the time of the booking of the event could act as an educational tool. The Chairman would then know the elements of a tax exempt sale and would be able to make a determination if his or her event qualifies as 'Tax Exempt'.

The Business responsible for collection of the taxes would benefit by ensuring the organization has a letter assigning an exemption identification 'E' number. Also that the chairman knows and acknowledges the elements of a tax exempt sale. This would protect the business when audited by the Illinois Department of Revenue.

ELEMENT 6. ARGUMENTS CONTRARY TO TAXPAYER'S VIEW > None.

ELEMENT 7. TRADE SECRETS>>No trade secrets or information is to be deleted from the private letter ruling.

ELEMENT 8. SIGNATURE>>Signature of Tax Payer or Tax Collecting Organization.

Thank you for your attention.

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable receive an exemption identification number ("E" number). See 86 Ill. Adm. Code 130.2007, enclosed. This number exempts such organizations from sales taxes when purchasing tangible personal property in furtherance of their organizational purposes. It also allows them to engage in a very limited amount of selling without incurring Retailers' Occupation Tax. These sales generally must be of limited duration. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005.

Retail sales of tangible personal property are subject to Retailers' Occupation Tax/Use Tax in Illinois. If retailers make sales of tangible personal property, they must collect tax or document an exemption. Retailers selling tangible personal property to Illinois exempt organizations must retain the "E" number in order to document the exempt sale.

86 Ill. Adm. Code 130.2005(r)(3) states as follows:

"Sellers claiming the benefit of this exemption are cautioned against laxity in claiming the benefit of this exemption without verifying the status of the purchaser since the seller will have the burden of proof in establishing his right to any such claimed exemption. The Courts have held repeatedly that the burden of sustaining a right to tax exemption is on the person claiming such exemption. Tax exemption provisions in statutes are strictly construed against the taxpayer, although the words employed in such provisions will be given their commonly accepted and understood meanings."

There are no other specific requirements for documentation. How a retailer chooses to document the exempt sale is within their discretion, as long as they retain the "E" number.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.